IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.3331 OF 2004

IN

COUNTER CLAIM (LODG.) NO.2571 OF 2004

IN

SUIT NO.1861 OF 2002

...

Mr.Raishi S. Chheda & ors. ...Plaintiffs

v/s.

Mr.Dhirajlal R. Chheda & Ors. ...Defendants

...

Mr.G.H.Shukla for the Plaintiffs.

Mr.G.S.Bhatt for Defendants Nos. 1 & 2.

...

CORAM: D.K.DESHMUKH, J.

DATED: 2ND DECEMBER,2005

P.C.:

1. This Notice of Motion is taken out by the original Defendant No.1 in his counter claim. In the plaint, the Plaintiff has challenged the validity of the family arrangement dated 25-6-1993. Counter claim has been filed by the Defendant No.1 for a decree for enforcement of the same family arrangement. Perusal of the prayer clauses of the notice of motion shows that the Defendant by way of interim order wants to give effect to the terms of the family arrangement which are under challenge in the suit and in relation to which the Defendant No.1 is claiming a decree in the counter claim. Interim reliefs which are claimed are incapable of being granted in view of the fact that the family arrangement itself is under challenge and the material that is presently on record and through which I have been taken through shows that the documents of family arrangement is extremely doubtful document. The Defendant No.1 has come up with this counter claim and this notice of motion only after in the suit filed by the plaintiffs interim orders were

passed in favour of the Plaintiffs. The parties to the suit and the counter claim are closely related. Defendant No.1 is the son and the Plaintiff No.1 is the father.

2. Taking overall view of the matter, therefore, in my opinion, as the reliefs claimed by this notice of motion are in the nature of final relied, none of the reliefs can be granted. Notice of Motion disposed of.

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